

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BESARO MOBILE HOME PARK, LLC,
dba BESARO MOBILE HOME PARK,

Plaintiff,

No. C 01-2836 PJH

v.

**ORDER DECLINING TO
RELATE CASES**

THE CITY OF FREMONT,

Defendant.

Before the court is a referral of case number C 05-2886 SBA, Besaro Mobile Home Park, LLC v. City of Fremont, for consideration whether the case is related to the earlier-filed action in this court captioned above. Judge Armstrong referred the later-filed action to this court because it appeared, upon review of the case, that the two actions might be related.

Both actions involve the same parties and involve a challenge to the identical city ordinance. Thus, the first part of the relatedness test is met. Civ. L. R. 3-12 (a)(1). However, subsection (a)(2) of the rule requires that, in addition to a substantial similarity of parties and substance, it also must "appear likely that there will be an unduly burdensome duplication of labor and expenses or conflicting results if the cases are conducted before different judges." Neither factor is present here. The earlier-filed action was dismissed more than four years ago, on February 21, 2002. The parties announced their settlement at their first appearance at the initial case management conference and filed a stipulation for dismissal shortly thereafter. No motions were filed and the action was dismissed prior to any consideration by this court of the merits. Having not considered the merits, the undersigned judge has absolutely no recollection of the case. As a result, judicial economy

1 is not necessarily promoted by relating the cases for consideration before this court. The
2 court further notes that while not expressly objecting to the relation, the defendant raises
3 these same concerns in its papers.

4 Accordingly, given that the interests identified in Civ. L. R. 3-12 (a)(2) are not
5 implicated here, the court DECLINES to relate the later-filed case, number C 05-2886 SBA,
6 to the above-captioned action.

7
8 **IT IS SO ORDERED.**

9 Dated: April 6, 2006



PHYLLIS J. HAMILTON
United States District Judge